

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

**1239451 Alberta Ltd.
(as represented by Altus Group Ltd.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
P. Grace, MEMBER
R. Kodak, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of the property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	090039801
LOCATION ADDRESS:	4116 Macleod Trail SE
HEARING NUMBER:	67688
ASSESSMENT:	\$4,420,000

The complaint was heard on June 19, 2012, in Boardroom 5 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- A. Iazard, K. Fong

Appeared on behalf of the Respondent:

- E. D'Altorio

Board's Decision in Respect of Procedural or Jurisdictional Matters:

[1] There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description:

[2] The subject property is a 58,342 sq.ft. (square foot) parcel of land, improved with a 19,288 sq.ft., B quality, freestanding retail structure. The improvement was constructed in 1973, and includes a 12,558 sq.ft. undeveloped basement area.

Issues:

[3] The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment
4. an assessment class

[4] However, at the hearing the Complainant led evidence and argument only in relation to matter 3, an assessment amount. The Complainant set out 5 grounds for the complaint in section 5 of the complaint form with a requested assessment value of \$3,290,000; however, only the following issue was in dispute at the hearing:

Issue: What is the correct net rent coefficient for the subject property?

Complainant's Requested Value(s):

The Complainant requested an assessment of \$3,540,000.

Board's Decision in Respect of the Issues:

Issue: What is the correct net rent coefficient for the subject property?

[5] The Complainant argued that the assessment does not reflect the typical market value of the subject property and is inequitable with comparable properties. The Complainant submitted that the subject property has been improperly stratified as a class "B" retail structure, and valued by means of the income approach to value at a net rent rate of \$17.00 per sq.ft. applied to the main floor area, and \$2.00 per sq.ft. applied to the basement floor area.

[6] The Complainant argued that the \$17.00 per sq.ft. rate is excessive, as the subject's age makes it comparable to other "C" class structures assessed at net rent rates of \$11.00 and \$14.00 per sq.ft.

[7] In support of the argument, the Complainant provided a copy of the subject property's rent roll indicating the property was leased in June 2008 for a 10 year period at a rate of \$9.06 per sq.ft., (applicable to the total improvement area of 31,846 sq.ft.) with an escalation to \$9.96 per sq.ft. midway through the 10 year term of the lease. The Complainant argued that the lease reflects a gross rent rate of \$9.06 per sq.ft., equating to \$13.65 per sq.ft. of main floor area. The Complainant submitted that a deduction of \$8.00 per sq.ft. would be required to equate the subject's gross rent rate to a net rent rate exclusive of typical operating costs, reflecting a net rent rate of \$5.65 per sq.ft. of main floor area.

[8] To demonstrate a typical market rent rate for the subject property, the Complainant provided a sample of leases in the 18,831 – 37,809 sq.ft. range, commencing between June 2004 and September 2010, and exhibiting a range of rent rates between \$11.00 and \$24.00 per sq.ft.; with a subset of seven leases with Macleod Trail locations exhibiting a median rent rate of \$13.65 per sq.ft. in support of the Complainant's requested net rent rate of \$13.50 per sq.ft.

[9] The Complainant further provided a sample of leases in the 6,030 – 10,913 sq.ft. range, commencing between July 2004 and December 2010 and exhibiting a range of lease rates between \$11.00 and \$18.00 per sq.ft.

[10] The Respondent argued that the subject property has undergone recent renovations to the facade and the interior, and as a result, is appropriately stratified as a class "B" retail structure and valued at a \$17.00 per sq.ft. net rent rate.

[11] In support of the assessed net rent rate, the Respondent provided a sample of 29 leases ranging from 15,513 – 36,726 sq.ft., commencing between February 2009 and August 2011 and exhibiting a range of rent rates between \$8.50 and \$30.91 per sq.ft. with a median net rent rate of \$17.00 per sq.ft.

[12] To demonstrate that the \$17.00 per sq.ft. net rent rate has been equitably applied to similar properties, the Respondent provided a list of 27 properties which have all been assessed with a \$17.00 per sq.ft. net rent coefficient.

[13] In rebuttal, the Complainant argued that the Respondent's \$17.00 per sq.ft. net rent rate is inflated as a result of including dated leases from 2009, and the median of the Respondent's leases commencing after July 2010 is \$14.50 per sq.ft. The Complainant submitted that the \$14.65 per sq.ft. June 2010 lease related to "Coast Wholesale Appliances", and included in both parties' evidence is the closest in proximity to the subject property, and the best indicator of typical market rent. The Complainant further argued that the Respondent's evidence of lease comparables omits the \$11.00 per sq.ft., September 2010 "Giant Tiger" lease, without explanation.

[14] The Respondent argued that there is no evidence that the \$11.00 per sq.ft. lease related to the "Giant Tiger" is valid, and that the subject's contract rent is irrelevant in the context of typical market rents and mass appraisal.

Decision:

[15] The Board finds that the correct net rent rate for the subject property is \$15.00 per sq.ft.

[16] The Board was persuaded by the nearby "Coast Wholesale Appliances", 8 year lease of 20,451 sq.ft., at a net rent rate of \$14.65 per sq.ft., as this rate is supported by the median net rent rate of \$14.50 per sq.ft. evident in the Respondent's evidence of recent leasing activity (since November 2010). However, the Board notes that the November 01, 2010 lease at \$8.50 per sq.ft. appears to be an outlier, as it is \$3.50 less than the next lowest rent rate. Without this lease in the analysis, the median of the remaining 7 leases is \$15.49 per sq.ft.

[17] The Board did not find the Complainant's \$13.65 per sq.ft. median rent rate to be compelling evidence of typical market rents. The Board notes that although the Complainant argued that the Respondent's analysis included dated leases and omitted relevant lease evidence, the Complainant's market rental rate comparables included leases dating back to 2004, and included only one lease from the 12 month period preceding the July 1, 2011 valuation date.

[18] The Board finds that the Complainant's market rental rate comparables in the 6,030 – 10,913 sq.ft. range are dissimilar to the subject property, and of little value in establishing a typical market net rent rate for the subject's total area of 31,846 sq.ft.

[19] The Board also did not find the Complainant's rent roll information to be persuasive as the subject's contract rent, negotiated in 2008, may or may not be reflective of typical market rents as of the valuation date. Further, the Board rejects the Complainant's position that the contract rental rate represents a "gross" rent rate, as the rent roll evidence indicates the tenant is responsible to pay for property taxes, all utilities, site services, roof and HVAC.

[20] With respect to the proper stratification of the subject, the Board is unable to make a finding in this regard as there was no evidence to enable the Board to differentiate the attributes of a class "B", from a class "C" retail property, and no evidence with respect to the subject's renovation costs.

The assessment is **revised** from: \$4,420,000 to: **\$3,920,000**

DATED AT THE CITY OF CALGARY THIS

24

DAY OF JULY, 2012.


J. Krysa,
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant's Submission (88 pages)
2. R1	Respondent's Submission (39 pages)

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand alone	Income Approach	Net Rent Rate